

REMARKS

Reconsideration is requested.

Claims 27-39 are pending. Claims 27 and 28 have been allowed.

Claim 29 has been amended, without prejudice, based on, for example, the disclosure of pages 9-11 of the specification. Claim 29 has been amended to further define the variant of the claim in response to the Examiner's comments in the paragraph spanning pages 3-4 of the Office Action dated February 2, 2009. Claims 34 and 35 have been revised, without prejudice, to obviate the Section 112, second paragraph, rejection of same. Support for the revisions may be found, for example, on pages 6 and 28 of the specification. No new matter has been added. The present Amendment does not raise new issues requiring further search and/or consideration. Entry of the present Amendment will at least reduce the issues for appeal by obviating the Section 112, second paragraph, rejection of claims 34-39. Entry of the present Amendment is requested.

The Section 112, first paragraph "written description", rejection of claims 34-39 is traversed. Reconsideration and withdrawal of the rejection are requested in view of, for example, the disclosure of pages 33 and 34 as well as Example 1 of the specification SEQ ID NO:4 of the allowed claims represents the sequence of the protein referred to as CRYO2¹. Yeast transformed with a cDNA expressing SEQ ID NO:4 are described in the Examples of the specification and, for example, in Figure 2 (Crio2). The Examiner is further requested to see, for example, originally-filed claims 10-13, 22, 23 and 25.

One of ordinary skill in the art will appreciate that the applicants were in possession of the claimed invention at the time the application was filed. The method of expressing a protein of claim 27 or claim 28 in a yeast as claimed is adequately described in the originally-filed specification. Withdrawal of the Section 112, first paragraph “written description”, rejection of claims 34-39 is requested.

The Section 112, first paragraph “enablement”, rejection of claims 29-33 is traversed. Reconsideration and withdrawal of the rejection are requested. The sequence of the rejected claims has been further defined in response to the Examiner’s comments spanning pages 3-4 of the Office Action dated February 2, 2009. The sequences of the claims may be made and identified from the teachings of the specification as well as the generally advanced level of skill in the art, as explained in the applicants remarks of June 13, 2008. The sequences of the claims contain, for example, naturally occurring amino acid sequences as well as similar sequences produced by one of ordinary skill in the art which may be screened for the functional and structural aspects of the claims without undue experimentation.

Withdrawal of the Section 112, first paragraph “enablement”, rejection of claims 29-33 is requested.

The Section 112, second paragraph, rejection of claims 34-39 is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above amendments.

¹ See for example, page 9, first paragraph of specification.

MULET SALORT et al.
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The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required in this regard.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By: /B. J. Sadoff/
 B. J. Sadoff
 Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100